

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 312

FINAL READING

Introduced by Aguilar, 35; McDonald, 41.

Read first time January 11, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government officials; to amend sections
2 32-562, 32-1205, and 32-1306, Reissue Revised Statutes of
3 Nebraska, and section 32-571, Revised Statutes Cumulative
4 Supplement, 2006; to change provisions relating to
5 resignations, vacancy appointments, recall election
6 costs, and recall elections; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-562, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-562 The resignation of the incumbent of an elective
4 office may be made as follows:

5 (1) By the Governor to the Legislature if in session or,
6 if not, to the Secretary of State;

7 (2) By United States Senators and Representatives in
8 the Congress of the United States, by incumbents elected by all
9 the registered voters of the state, by judges of the Supreme
10 Court, Court of Appeals, district courts, separate juvenile courts,
11 Nebraska Workers' Compensation Court, and county courts, and by
12 Regents of the University of Nebraska to the Governor;

13 (3) By members of the Legislature to the presiding
14 officer of the Legislature if in session, who shall immediately
15 transmit information of the same to the Governor, or if such body
16 is not in session, to the Governor;

17 (4) By all county officers to the county board or the
18 county clerk;

19 (5) By members of the county board to the county clerk;

20 (6) By all township officers to the township clerk;

21 (7) By the township clerk to the township board;

22 (8) By all city or village officers to the city council
23 or village board;

24 (9) By all school board members to the school board;

25 (10) By all officers holding appointments to the officer

1 or body by whom they were appointed; and

2 (11) By all elective officers for which no other method
3 is provided to the body on which they serve.

4 Such resignation shall be in writing and shall not
5 take effect until accepted by the board or officer to whom the
6 resignation is ~~made~~ tendered.

7 Sec. 2. Section 32-571, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 32-571 Appointments made pursuant to sections 32-565
10 to 32-570 and 32-573 shall be in writing and shall continue
11 for the unexpired term and until a successor is elected and
12 qualified except as otherwise provided in such sections. The
13 written appointment shall be filed with the Secretary of State
14 or county or township clerk. No person shall be appointed to
15 fill a vacancy unless he or she has the qualifications required
16 to be elected to such office at the time of the appointment
17 unless otherwise specifically provided. Appointments made to fill
18 vacancies created as the result of the recall process shall be
19 subject to subsection (5) of section 32-1308.

20 Sec. 3. Section 32-1205, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 32-1205 A political subdivision in which an official is
23 recalled or a vacancy needs to be filled as the result of a
24 recall petition shall pay the costs of the recall procedure and any
25 special election held as a result of a recall election. If a recall

1 election is canceled pursuant to section 32-1306, the political
2 subdivision shall be responsible for costs incurred related to the
3 canceled election. The costs shall include all chargeable costs
4 as provided in section 32-1202 associated with preparing for and
5 conducting a recall or special election.

6 Sec. 4. Section 32-1306, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 32-1306 (1) If the recall petition is found to be
9 sufficient, the filing clerk shall notify the official whose
10 removal is sought and the governing body of the affected political
11 subdivision that sufficient signatures have been gathered.
12 Notification of the official sought to be removed may be by any
13 method specified in section 25-505.01 or, if notification cannot be
14 made with reasonable diligence by any of the methods specified in
15 section 25-505.01, by leaving such notice at the official's usual
16 place of residence and mailing a copy by first-class mail to the
17 official's last-known address.

18 (2) ~~If the official does not resign within five days~~
19 ~~after receiving the notice, the~~ The governing body of the political
20 subdivision shall order an election to be held not less than
21 thirty nor more than forty-five days after the expiration of the
22 five-day period, notification of the official whose removal is
23 sought under subsection (1) of this section, except that if any
24 other election is to be held in that district political subdivision
25 within ninety days of the expiration of the five-day period, after

1 such notification, the governing body of the political subdivision
2 shall provide for the holding of the ~~removal~~ recall election on the
3 same day. ~~After the governing body sets the date for the recall~~
4 ~~election,~~ the recall election shall be held regardless of whether
5 All resignations shall be tendered as provided in section 32-562.
6 If the official whose removal is sought resigns before the recall
7 election is held, the governing body may cancel the recall election
8 if the governing body notifies the election commissioner or county
9 clerk of the cancellation at least sixteen days prior to the
10 election, otherwise the recall election shall be held as scheduled.

11 (3) If the governing body of the political subdivision
12 fails or refuses to order a recall election within the time
13 required, the election may be ordered by the district court having
14 jurisdiction over a county in which the elected official serves. If
15 a filing clerk is subject to a recall election, the Secretary of
16 State shall conduct the recall election.

17 Sec. 5. Original sections 32-562, 32-1205, and 32-1306,
18 Reissue Revised Statutes of Nebraska, and section 32-571, Revised
19 Statutes Cumulative Supplement, 2006, are repealed.